

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Katherine Broeksmit	Team: Team # 2	CCRB Case #: 201303423	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 04/25/2013 9:10 PM	Location of Incident: § 87(2)(b) § 87(2)(b)	Precinct: 41	18 Mo. SOL 10/25/2014	EO SOL 10/25/2014	
Date/Time CV Reported Fri, 04/26/2013 9:48 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 04/26/2013 9:48 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Jonathan Ku	20058	951890	PBBX
2. SGT Brian Padovani	05292	944872	PBBX
3. POM Fredelin Cabrera	02539	952523	PBBX

Officer(s)	Allegation	Investigator Recommendation
A.POM Fredelin Cabrera	Abuse: PO Fredelin Cabrera entered § 87(2)(b) § 87(2)(b) in the Bronx.	§ 87(2)(b)
B.POM Jonathan Ku	Discourtesy: PO Jonathan Ku spoke discourteously to § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
C.POM Jonathan Ku	Abuse: PO Jonathan Ku threatened § 87(2)(b) and § 87(2)(b) with the use of force.	§ 87(2)(b)
D.POM Jonathan Ku	Off. Language: PO Jonathan Ku made remarks to § 87(2)(b) and § 87(2)(b) based upon their sex.	§ 87(2)(b)
E.POM Jonathan Ku	Abuse: PO Jonathan Ku refused to provide his name and shield number to § 87(2)(b)	§ 87(2)(b)
F.SGT Brian Padovani	Abuse: Sgt. Brian Padovani refused to provide his name and shield number to § 87(2)(b)	§ 87(2)(b)

Case Summary

§ 87(2)(b) called the CCRB on April 26, 2013 to file this complaint (encl. c3-c5). On April 25, 2013, at approximately 9:10 p.m., in the vicinity of the § 87(2)(b) of § 87(2)(b) in the Bronx, PO Jonathan Ku and PO Fredelin Cabrera attempted to issue § 87(2)(b) a summons. The following allegations resulted.

- **Allegation A – Abuse of Authority: PO Fredelin Cabrera entered § 87(2)(b) in the Bronx.**
§ 87(2)(b), § 87(2)(g)
- **Allegation B – Discourtesy: PO Jonathan Ku spoke discourteously to § 87(2)(b) and § 87(2)(b)**
- **Allegation C – Abuse of Authority: PO Jonathan Ku threatened § 87(2)(b) and § 87(2)(b) with the use of force.**
- **Allegation D – Offensive Language: PO Jonathan Ku made remarks to § 87(2)(b) and § 87(2)(b) based upon their races.**
§ 87(2)(b), § 87(2)(g)
- **Allegation E – Abuse of Authority: PO Jonathan Ku refused to provide his name and shield number to § 87(2)(b)**
§ 87(2)(b), § 87(2)(g)
- **Allegation F – Abuse of Authority: Sgt. Brian Padovani refused to provide his name and shield number to § 87(2)(b)**
§ 87(2)(b), § 87(2)(g)

This complaint was not suitable for mediation because § 87(2)(b) intended to file a lawsuit against the officers involved.

Results of Investigation

Civilian Statements

Attempts to Contact Civilians

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) a § 87(2)(b)

CCRB Statement

§ 87(2)(b) was interviewed at the CCRB on May 13, 2013 (encl.d1-d9). Between April 29, 2013, and April 22, 2014, § 87(2)(b) provided three additional telephone statements (encl.d1-d9). Her statements were consistent with any exceptions noted.

On April 25, 2013, at approximately 9:10 p.m., § 87(2)(b) and two of her daughters, § 87(2)(b) and § 87(2)(b) were smoking cigarettes by a large window in the hallway of the § 87(2)(b) of § 87(2)(b). During her April 22, 2014, phone statement, § 87(2)(b) added that her female neighbor, who was not identified via investigation, was with them at the time. § 87(2)(b) stated that § 87(2)(b) was a NYCHA complex but the investigation determined that the building was privately owned and was enrolled in the “Clean Halls” program. PO1 and PO2 got off the elevator and approached § 87(2)(b) and § 87(2)(b). Because § 87(2)(b) obtained each officer’s name and shield number during the incident, § 87(2)(b) referred to them by name. PO1, described as a 6’2” tall Asian man with short, spiky black hair, was identified via investigation as PO Jonathan Ku. PO2, described as a tall, slender Hispanic man with a dark complexion, was identified via investigation as PO Fredelin Cabrera.

PO Ku asked who had been drinking, referring to a can of beer in a brown paper bag. § 87(2)(b) told PO Ku that she did not know and asked if the officers had seen her drinking. PO Ku said that he and PO Cabrera had seen them drinking by the window from downstairs and asked for their IDs. § 87(2)(b) told PO Ku that she lived in the building. § 87(2)(b) and § 87(2)(b) walked down the hall toward § 87(2)(b) apartment. PO Ku and PO Cabrera followed them. At one point during her April 22, 2014, phone statement, § 87(2)(b) stated that her neighbor walked away from the officers. At another point during the same phone statement, § 87(2)(b) stated her neighbor observed the entire incident. During her October 7, 2013, phone statement, § 87(2)(b) stated that § 87(2)(b) was in the apartment during the incident.

§ 87(2)(b) rang the doorbell and her son, § 87(2)(b) let her in. § 87(2)(b) told § 87(2)(b) and § 87(2)(b) to come inside and get their IDs. In her interview, § 87(2)(b) acknowledged saying that she was going to get her ID merely to get into her apartment because she knew that the officers would need a search or arrest warrant to enter.

§ 87(2)(b) tried to close the door but PO Ku put his foot in the doorframe. § 87(2)(b) was not sure whether PO Ku pushed the door but he prevented the door from closing, which caused the door to hit § 87(2)(b) in her left knee that she had surgery on in November of 2012. While struggling with the door, trying to get in, PO Ku told § 87(2)(b) and § 87(2)(b) to get “the fuck” out of the apartment, that he would “fuck” them up, and that he would “fucking” kick their “fucking” asses. § 87(2)(b) was positioned behind her door.

§ 87(2)(b) came out from his bedroom, took § 87(2)(b) place behind the door, and asked the officers what was going on. PO Ku still had his foot in the door. PO Ku became extremely angry and was foaming at the mouth. While § 87(2)(b) was talking to the officers, § 87(2)(b) leaned over him and said something. PO Ku told § 87(2)(b) to shut up and that he would kick her “fucking black ass.” § 87(2)(b) told § 87(2)(b) to call 911, which she did. The operator did not take § 87(2)(b) seriously so § 87(2)(b) placed another call to 911. § 87(2)(b) requested a sergeant to the location and an ambulance for her hurt knee. The officers left while § 87(2)(b) was on the phone with 911. The interaction had lasted fifteen to twenty minutes at that point. § 87(2)(b) told § 87(2)(b) that PO Ku had tried to poke him with a “shiny thing” that was pointed at the end.

Approximately twenty minutes after the officers left, PO Ku and PO Cabrera returned with PO3 and PO4. PO3, described as a bald white or Hispanic man with blue eyes, was identified via

investigation as Sgt. Brian Padovani. § 87(2)(b) referred to PO3 as the sergeant throughout the interview. PO4, described as a 5'2" tall Hispanic woman with black hair and a white complexion, was identified via investigation as either PO Sonyorlle Sanchez or PO Veronica Guachichullca, both of whom are Hispanic women.

§ 87(2)(b) told Sgt. Padovani that he wanted to make a complaint about PO Ku and PO Cabrera. Sgt. Padovani said that someone had been drinking and the whole situation was childish. § 87(2)(b) asked the officers for their badge numbers. PO Cabrera put his badge in § 87(2)(b) face and was laughing. § 87(2)(b) asked PO Ku for his badge number and PO Ku said no and that if § 87(2)(b) wanted his badge number he could come outside and get it. § 87(2)(b) asked Sgt. Padovani to provide PO Ku's badge number. Sgt. Padovani provided his own badge number and PO Ku's badge number.

After the officers left, the ambulance came but § 87(2)(b) decided not to go to the hospital. § 87(2)(b) knee was swollen as a result of this incident. § 87(2)(b) neighbor came over after the incident and asked what had happened. § 87(2)(b) building had cameras in the hallway.

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) a § 87(2)(b) at the time of the incident.

CCRB Statement

§ 87(2)(b) was interviewed at the CCRB on May 13, 2013, and provided a phone statement on January 23, 2014 (encl. d10-d16). § 87(2)(g)

On April 25, 2013, at approximately 9:10 p.m., § 87(2)(b) was in bed. He heard a loud bang on the front door and someone said "come out here," "I will kick you," and "I will fuck you up." § 87(2)(b) did not know who made those comments. When § 87(2)(b) exited his bedroom, § 87(2)(b) told him the police were outside. PO Ku had his foot in the doorframe. PO Ku was cursing and repeatedly told § 87(2)(b) to come outside. § 87(2)(b) could see PO Cabrera through the cracked door but could not see PO Ku. PO Cabrera was not cursing. PO Cabrera was laughing and did not say anything else until PO Cabrera told PO Ku that § 87(2)(b) was not behind the door anymore.

PO Ku kicked the door hard which caused it to open more. § 87(2)(b) could see both officers after PO Ku kicked the door. § 87(2)(b) told PO Ku that he almost broke his toes with the door. PO Ku called § 87(2)(b) a "black motherfucker," told him to shut "the fuck" up, and told him to come outside and let PO Ku "fuck § 87(2)(b) up." § 87(2)(b) told PO Ku not to talk to § 87(2)(b) that way. PO Ku called § 87(2)(b) a "bitch" and said he would kick her. PO Ku tried to "jab" § 87(2)(b) with a black shiny object with two silver pieces on it four or five times. The object extended five inches beyond PO Ku's grip. PO Ku was enraged and foaming at the mouth.

§ 87(2)(b) called 911 and was speaking loudly enough for the officers to hear her. § 87(2)(b) called 911 again and requested an ambulance and a sergeant to come to the scene. § 87(2)(b) was "hyper" and was acting aggressively. The incident lasted between 15 and 20 minutes before the officers left. Ten to twenty minutes after they left, PO Ku, PO Cabrera returned with Sgt. Padovani and either PO Sanchez or PO Guachichullca.

During his January 23, 2014, phone statement, § 87(2)(b) stated that he intended to file a complaint with Sgt. Padovani but did not get the chance to ask Sgt. Padovani during the incident. § 87(2)(b) asked for PO Cabrera and PO Ku's names and badge numbers. PO Cabrera approached the door, said "here," and put his badge number in § 87(2)(b) face while § 87(2)(b) wrote it down. PO Ku said "no" in response to § 87(2)(b) request. § 87(2)(b) asked Sgt. Padovani for PO Ku's name and badge number and Sgt. Padovani said that the situation was childish. § 87(2)(b) then asked Sgt. Padovani for his name and badge number. He did not respond. § 87(2)(b) read Sgt. Padovani's name and badge number off his shield out loud. Sgt. Padovani confirmed that what § 87(2)(b) said was Sgt. Padovani's correct information and added that he was a sergeant. Sgt. Padovani provided PO Ku's name and badge number. § 87(2)(b) and § 87(2)(b) were there. § 87(2)(b) was in a room in the back of the apartment for the entire incident because she was scared.

No summonses were issued. § 87(2)(b) neighbor came over the next day and said she heard what had happened.

Victim: § 87(2)(b)

- § 87(2)(b) a § 87(2)(b) at the time of the incident.

CCRB Statement

§ 87(2)(b) was interviewed at the CCRB on September 4, 2013 (encl. d17-d20). Her § 87(2)(g)

On April 25, 2013, § 87(2)(b) neighbor, and § 87(2)(b) were talking in the hallway. The investigation determined that § 87(2)(b) mistook § 87(2)(b) for § 87(2)(b). § 87(2)(b) stated that § 87(2)(b) lived on the opposite side of the § 87(2)(b). When PO Ku and PO Cabrera approached them, § 87(2)(b) neighbor walked away and went to her apartment.

§ 87(2)(b) and § 87(2)(b) walked to their apartment and the officers followed them. When § 87(2)(b) and § 87(2)(b) went into their apartment, they tried to close the door but PO Ku became immediately irate and put his foot in the door. PO Ku was red in the face and was shouting things like, "Stupid bitch," "Nigger," "Black bitch," "Motherfuckers." His language was not directed at anyone in particular. § 87(2)(b) and § 87(2)(b) kept trying to close the door. § 87(2)(b) and § 87(2)(b) were nearby.

§ 87(2)(b) came out of his room and tried to close the door. PO Ku said that he would "fuck § 87(2)(b) up" and called him a "black motherfucker." § 87(2)(b) was irate and may have called PO Ku a "stupid bitch." PO Ku tried to poke § 87(2)(b) with something that was not his gun. PO Ku was angry and upset and PO Cabrera was laughing. PO Ku and PO Cabrera left when § 87(2)(b) said she was going to call for a sergeant.

PO Ku and PO Cabrera returned with PO4 and PO5. PO5 was described as a white or Hispanic man and was not identified via investigation. § 87(2)(b) stayed in the apartment and did not get a good look at PO4 or PO5. Sgt. Padovani was trying to get § 87(2)(b) to come outside but § 87(2)(b) refused because PO Ku had just been threatening him. § 87(2)(b) thought that § 87(2)(b) eventually obtained Sgt. Padovani and PO Ku's name and shield numbers.

WITNESS: § 87(2)(b)

§ 87(2)(b) provided a phone statement on October 15, 2013 (encl. d21). § 87(2)(b) could be heard in the background. The investigator asked § 87(2)(b) whether he was discussing his statement with § 87(2)(b). § 87(2)(b) stated that he was discussing his statement with himself. § 87(2)(b) could be heard reminding § 87(2)(b) that they had to call the police on PO Ku and PO Cabrera.

On April 25, 2013, PO Ku and PO Cabrera tried to enter § 87(2)(b)'s home without a search warrant. § 87(2)(b) rang the doorbell while § 87(2)(b) was in the bathroom. He answered. § 87(2)(b) came inside and tried to close the door but officers were pushing the door on her bad knee and bad foot. § 87(2)(b) came out to see what was happening. An officer called him a "black nigger." § 87(2)(b) was standing next to § 87(2)(b) and could see the front door and the officers. Initially, § 87(2)(b) stated that PO Cabrera was holding a greyish "pole" that he was trying to prod § 87(2)(b) with but then § 87(2)(b) stated that PO Ku was holding the object. § 87(2)(b) stated that PO Ku and PO Cabrera left and when they returned with their boss, they pretended as if nothing had happened.

Attempts to Contact Civilians

§ 87(2)(b)

Between October 15, 2013, and November 29, 2013, four calls were placed to § 87(2)(b). Her address was confirmed and two letters were sent to her during the same time frame. On November 13, 2013, § 87(2)(b) provided a brief phone statement that was consistent with the obtained civilian statements (encl. d22). Between November 26, 2013, and December 10, 2013, § 87(2)(b) missed two scheduled appointments with the CCRB without providing prior notice.

§ 87(2)(b)

During a call placed to § 87(2)(b) on April 28, 2014, § 87(2)(b) stated that she was not present during the incident (encl. d24). She then stated that she did not recall whether or not she was present during the incident. She maintained that she did not feel comfortable providing a statement based on her memory of the incident.

Neighbor

§ 87(2)(b) provided her neighbor's apartment number during her April 22, 2014, phone statement. A Lexis Nexis search of the address was conducted and "§ 87(2)(b)" was listed as the current resident. Between April 22, 2014, and April 28, 2014, two letters were sent to the individual. To date, neither letter has been returned. The Lexis Nexis search returned three phone numbers. Calls to two of those phone numbers reached individuals who stated that the investigator had the wrong number. Between April 22, 2014, and May 1, 2014, five calls were placed to the remaining phone number. None of the calls were answered and there was not an option to leave a voicemail.

Wavecrest Management

A search of Govmaps revealed that § 87(2)(b) was not a NYCHA building but was owned by "§ 87(2)(b)." Between May 23, 2013, and August 30, 2013, four calls were placed to § 87(2)(b). Voicemail messages could not be left because the inbox was full.

NYPD Statements:

Subject Officer: PO FREDELIN CABRERA

- *PO Fredelin Cabrera, a § 87(2)(b) [REDACTED] at the time of the incident.*
- *On April 25, 2013, PO Cabrera was assigned to foot post from 7:30 p.m. until 4:05 a.m. the next day with PO Jonathan Ku. PO Cabrera was in uniform.*

Memo Book

At 9:10 p.m., PO Cabrera observed a female on the § 87(2)(b) [REDACTED] drinking a Colt 45 (encl. e2-e5). When approached, the female refused to give ID and ran inside § 87(2)(b) [REDACTED]. She was uncooperative. At 9:25 p.m. there was a radio run at § 87(2)(b) [REDACTED]. At 9:50 p.m., Sgt. Padovani responded to the scene in regards to the radio run and gave name and shield number to complainant.

CCRB Testimony

PO Cabrera was interviewed at the CCRB on January 23, 2014 (encl. e1-e8).

On April 25, 2013, at 9:10 p.m., PO Cabrera and PO Ku observed a woman drinking a beer inside of § 87(2)(b) [REDACTED] in the Bronx. PO Cabrera and PO Ku were outside when they made the observation but the woman was clearly visible through a glass window. This location, § 87(2)(b) [REDACTED] is a Clean Halls building. A photograph of § 87(2)(b) [REDACTED] was presented and he confirmed that she was the woman drinking. § 87(2)(b) [REDACTED] was with two other women, identified via investigation as § 87(2)(b) [REDACTED] and § 87(2)(b) [REDACTED] but § 87(2)(b) [REDACTED] was the only one drinking. PO Cabrera and PO Ku entered the building to issue § 87(2)(b) [REDACTED] a summons.

When the officers approached, § 87(2)(b) [REDACTED] said she had not been drinking. PO Cabrera and PO Ku asked § 87(2)(b) [REDACTED] for her ID to issue her a summons. § 87(2)(b) [REDACTED] was calm and polite and said she was going to get her ID from her apartment. § 87(2)(b) [REDACTED] grabbed the can of beer and walked down the hall with § 87(2)(b) [REDACTED] and § 87(2)(b) [REDACTED]. Neither PO Cabrera nor PO Ku ever interacted with § 87(2)(b) [REDACTED] or § 87(2)(b) [REDACTED]. PO Cabrera and PO Ku followed them.

As soon as she got to her door, § 87(2)(b) [REDACTED] demeanor changed. She became aggressive. § 87(2)(b) [REDACTED] asked why the officers were behind her. PO Cabrera told § 87(2)(b) [REDACTED] that she was going to get her ID. § 87(2)(b) [REDACTED] and the other two women walked into the apartment and tried to slam the door in PO Cabrera's face. At first PO Cabrera stated he put his foot in the door instinctively because it was going to hit him and then took his foot out. Then, he stated that § 87(2)(b) [REDACTED] kept trying to slam the door on PO Cabrera's foot. PO Cabrera was not entering the apartment when § 87(2)(b) [REDACTED] slammed the door. PO Cabrera thought that § 87(2)(b) [REDACTED] was going to leave the door open while she went inside to get her ID.

§ 87(2)(b) [REDACTED] started verbally insulting the officers, called them "racist bastards," and said she was going to sue them. PO Ku did not try to get the individuals to come out outside of the apartment. PO Ku was not doing anything "out of the ordinary." PO Ku asked for § 87(2)(b) [REDACTED] ID again but was not yelling.

PO Cabrera did not hear PO Ku make any statements regarding the races of any of the individuals behind the door. PO Ku never made any statements regarding a civilian's sex. PO Cabrera did not hear PO Ku tell any of the individuals behind the door to get "the fuck" out of the apartment or that PO Ku would "fuck" them all up or kick their "fucking asses." PO Ku never kicked the door or threatened any individual with the use of force. PO Ku never took any instrument off his belt and did not gesture into the apartment via the crack in the door. PO Ku never made statements that included the following words: "nigger," "fuck," "motherfucker," "bitch."

When PO Cabrera determined that § 87(2)(b) was not going to come out of her apartment, he took his foot out of the door because he was not going to "slam" the door open for a mere drinking summons. The officers left as soon as PO Cabrera took his foot out of the door. PO Cabrera did not recall how long the interaction lasted before he and PO Ku left. PO Ku did not hear any civilian in the apartment calling 911. PO Cabrera and PO Ku were probably already out of the building and walking to their post on Hoe Avenue when they heard the request for a supervisor over the radio to the incident location.

When they heard the radio call, PO Cabrera and PO Ku returned to § 87(2)(b) apartment. Sgt. Padovani responded with two female officers, PO Sanchez and PO Guachicula. § 87(2)(b) came to the door and § 87(2)(b) stood behind him. § 87(2)(b) told Sgt. Padovani that PO Cabrera and PO Ku had tried to kick their door in. Neither PO Cabrera nor PO Ku spoke to § 87(2)(b) prior to Sgt. Padovani arriving. § 87(2)(b) asked for shield numbers and wrote them down on a list.

PO Cabrera approached the door, provided his name and shield number verbally and also held his shield out to ensure that § 87(2)(b) could read it. § 87(2)(b) asked for Sgt. Padovani's shield number and Sgt. Padovani provided it. When § 87(2)(b) asked for PO Ku's name, PO Ku became irate, and said, "Come outside and get it." PO Ku never said "no" in response to a request for his name and shield. PO Cabrera initially stated that PO Ku eventually provided his name and shield. Then PO Cabrera stated that he did not remember whether PO Ku provided his own name and shield or whether Sgt. Padovani provided it on PO Ku's behalf.

Subject Officer: PO JONATHON KU

- *PO Jonathan Ku, a § 87(2)(b) at the time of the incident.*
- *On April 25, 2013, PO Ku was assigned to foot-post with PO Fredelin Cabrera from 7:30 p.m. until 4:05 a.m. the next day. He was in uniform.*

Memo Book

At 9:10 p.m., PO Ku observed a black woman with an open container – a 24 oz. Colt 45 (encl.e10). She was with two other black women. When approached, the woman refused to provide her ID and went inside § 87(2)(b) in § 87(2)(b). She was uncooperative. Sgt. Padovani arrived at the scene at 9:50 p.m. and provided shield number to complainant.

CCRB Testimony

PO Ku was interviewed at the CCRB on December 30, 2013 (encl. e9-e16). § 87(2)(g)

PO Ku asked § 87(2)(b) for her ID to issue her a summons. § 87(2)(b) stated that her ID was in her apartment down the hall. PO Ku never interacted with § 87(2)(b) or § 87(2)(b)

PO Ku and PO Cabrera followed § 87(2)(b) and § 87(2)(b) back to § 87(2)(b) apartment. § 87(2)(b) tried to slam the door on the officers. PO Cabrera put his foot in the door frame to make sure it would not shut. § 87(2)(b) started yelling and screaming. PO Ku could not see who was inside the apartment. PO Ku ordered § 87(2)(b) to open the door at least three times. PO Ku was trying to maintain a professional demeanor while trying to get § 87(2)(b) to come outside and provide her ID. His voice was raised but he was not screaming. PO Ku never said the following: “get the fuck out here,” “I will fuck you up,” “I will kick your fucking asses,” “I will kick your fucking black ass.” He never called a civilian a “nigger,” a “bitch,” or a “motherfucker.”

PO Ku heard a male voice, identified via investigation as belonging to § 87(2)(b) shortly after § 87(2)(b) slammed the door. PO Ku could not see § 87(2)(b). PO Ku did not recall what § 87(2)(b) said. PO Ku never threatened § 87(2)(b) with force. PO Ku never made any comments about a civilian’s race or about a civilian’s sex. He did not recall any other statements he made to any civilian that day.

PO Ku and PO Cabrera were outside § 87(2)(b) door for around five or six minutes before leaving but he did not recall what happened during that time. § 87(2)(b) was directing profanities at the officers and told them to leave. The officers decided they were not going to escalate the situation for a mere open container summons and left without issuing a summons. PO Ku did not hear § 87(2)(b) place a call to 911. PO Ku did not recall when PO Cabrera removed his foot from the door.

PO Ku and PO Cabrera returned to the scene when they heard the radio run requesting a sergeant to § 87(2)(b). § 87(2)(b) Sgt. Padovani arrived in regards. Initially, PO Ku stated that § 87(2)(b) requested everyone’s names and shield numbers. He then stated only § 87(2)(b) asked for the officers’ names and shield numbers.

PO Ku did not recall whether he said that if § 87(2)(b) wanted his shield number, he could come outside and get it. PO Ku did not recall whether he provided his own name and shield number or whether Sgt. Padovani provided it on his behalf. PO Ku thought that PO Cabrera provided his own name and shield number. Sgt. Padovani provided his own name and shield number.

Witness Officer: SGT. BRIAN PADOVANI

- *Sgt. Brian Padovani, a § 87(2)(b) at the time of the incident.*
- *On April 25, 2013, Sgt. Padovani worked from 5:50 p.m. until 4:17 a.m. the next day. He was supervising the following units: impact, shooting reduction, and patrol. He was originally assigned to work alone but did not recall if he had an operator at the time of the incident. He was in uniform.*

Memo Book

At 9:35 p.m., Sgt. Padovani responded to § 87(2)(b) (encl. e18-e20). At 9:50 p.m., he left the location after providing the complainant “CCRB” information which included the names and shield numbers of the involved parties.

CCRB Testimony

Sgt. Padovani was interviewed at the CCRB on December 27, 2013 (encl. e18-e23).

On April 25, 2013, at around 9:35 p.m., Sgt. Padovani arrived at § 87(2)(b). When he got there, PO Ku was engaged in a loud argument with a woman who was standing in her apartment on the § 87(2)(b). § 87(2)(b) was holding the door mostly shut. PO Ku was trying to get § 87(2)(b) who had been drinking to come out of the apartment. At one point, Sgt. Padovani said PO Ku and § 87(2)(b) were screaming at each other but then stated that only § 87(2)(b) was screaming. PO Ku was upset.

§ 87(2)(b) was screaming that she wanted Sgt. Padovani and PO Ku's names and shield numbers but Sgt. Padovani did not hear anyone ask PO Ku directly for his badge number. PO Ku said that he would provide his name and shield if the individual would come out of the apartment to receive a summons. § 87(2)(b) asked Sgt. Padovani for PO Ku's badge number. Sgt. Padovani verbally provided his own name and shield number and then provided PO Ku's name and shield number on PO Ku's behalf. Sgt. Padovani confirmed that he provided PO Ku's badge number on PO Ku's behalf because PO Ku would not provide it himself.

Officers Not Interviewed

PO4 was not interviewed because no allegations were made against PO4, who would have only witnessed what happened in the second part of the incident.

NYPD Documents

911 Recording

§ 87(2)(b) called 911 and requested that a sergeant come to § 87(2)(b) because officers were accosting her (encl. e26-e28). She stated that two young policemen were trying to break through the door of her apartment and were cursing at her family. § 87(2)(b) mentioned PO Ku by name and said PO Ku was using racial slurs such as "black motherfucker." § 87(2)(b) said that PO Cabrera was enabling PO Ku. § 87(2)(b) could be heard speaking to § 87(2)(b). § 87(2)(b) could be heard saying that she knew an officer said "black nigger." § 87(2)(b) could also be heard talking about how the officers allowed § 87(2)(b) to walk away from the incident. § 87(2)(b) placed a second call. She stated the officers were kicking down her door two minutes ago. § 87(2)(b) requested an ambulance for her knee.

SPRINT Report

SPRINT X14678 was generated at 9:19 p.m. as a result of § 87(2)(b) request for a sergeant (encl. e24-e25). Sgt. Padovani told central that the incident should be classified as a non-crime corrected 9:52 p.m.

Status of Civil Proceedings

- A call to the office of the New York City Comptroller revealed that no notice of claims have been filed with the City of New York regarding this incident as of April 30, 2014.

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Subject Officers CCRB History

- PO Cabrera has been a member of the service for 1 year and there are no substantiated CCRB allegations against him (encl. b1). This is his first CCRB complaint.
- PO Ku has been a member of the service for 2 years and there are no substantiated CCRB allegations against him (encl. b2).
- Sgt. Padovani has been a member of the service for 6 years and there are no substantiated CCRB allegations against him (encl. b3). This is his first CCRB complaint.

Conclusion

Allegations Not Pled

§ 87(2)(b) acknowledged that the officers accused her of drinking in the hallway of her building. The officers would have issued § 87(2)(b) a summons if she had not retreated into her apartment. Therefore, no allegation of stop was pled. § 87(2)(b) alleged that PO Ku stuck his foot in the door, which caused it to hit her in her left knee. § 87(2)(b) alleged that PO Ku kicked the door which caused it to hit his toes. However, because these allegations were unintended consequences of Allegation A, no allegations of force were pled. § 87(2)(b) alleged that PO Ku shouted “Stupid bitch” after she, § 87(2)(b) and § 87(2)(b) went into their apartment. § 87(2)(b) made a more egregious allegation that PO Ku called § 87(2)(b) a “black bitch” which was addressed in the analysis of Allegation D. Therefore, no additional allegation of offensive language based on sex was pled. § 87(2)(b) alleged that PO Cabrera merely displayed his shield number while § 87(2)(b) wrote it down. Because § 87(2)(b) was able to correctly record PO Cabrera’s information as a result of PO Cabrera’s action, no additional allegation of refusal to provide name and shield number was pled to PO Cabrera.

Identification of Subject Officers

PO Cabrera acknowledged putting his foot in § 87(2)(b) door. Therefore, Allegation A was pled to him. Each civilian alleged that PO Ku was yelling at them and that PO Cabrera was not. PO Cabrera acknowledged that PO Ku became irate when § 87(2)(b) tried to shut her door and PO Ku acknowledged ordering § 87(2)(b) out of her apartment multiple times. Therefore, Allegations B through E were pled to PO Ku. PO Ku and Sgt. Padovani acknowledged that § 87(2)(b) asked for their names and shield numbers. Therefore, Allegations E and F were pled accordingly.

Investigative Findings and Recommendations

Allegation A – Abuse of Authority: PO Fredelin Cabrera entered § 87(2)(b) § 87(2)(b) in the Bronx.

§ 87(2)(b) and § 87(2)(b) alleged that PO Ku put his foot in the doorframe of § 87(2)(b) § 87(2)(b) to prevent the door from closing and subsequently tried to get into the apartment by struggling with the door.

§ 87(2)(b) stated that PO Ku and PO Cabrera asked for IDs from her, § 87(2)(b) and § 87(2)(b) for allegedly drinking in the hallway. § 87(2)(b) told the officers she lived in the building and PO Ku and PO Cabrera followed § 87(2)(b) and § 87(2)(b) to their apartment. § 87(2)(b) entered and told § 87(2)(b) and § 87(2)(b) to come inside to get their IDs. Once § 87(2)(b) and § 87(2)(b) entered, § 87(2)(b) tried to close the door on the officers but PO Ku put his foot in the door frame which prevented it from fully closing. § 87(2)(b) stated that § 87(2)(b) came out of his bedroom and tried to close the door on

PO Ku. § 87(2)(b) placed a call to 911 and requested that a sergeant come to the scene. PO Ku and PO Cabrera left at some point during § 87(2)(b) 911 call. The incident lasted fifteen to twenty minutes before the officers left. § 87(2)(b) and § 87(2)(b)'s statements were consistent with § 87(2)(b) statement.

PO Cabrera acknowledged putting his foot in the doorframe of § 87(2)(b) apartment. He stated that § 87(2)(b) had calmly stated she was going to her apartment to retrieve her ID and that he and PO Ku followed her, § 87(2)(b) and § 87(2)(b) demeanor changed as soon as she got to her door. § 87(2)(b) asked why the officers were behind her, walked into her apartment with § 87(2)(b) and § 87(2)(b) and tried to slam the door in PO Cabrera's face. PO Cabrera thought that § 87(2)(b) was going to leave the door open while she retrieved her ID and stated that he was not entering the apartment when § 87(2)(b) slammed the door. Initially, PO Cabrera stated that he put his foot in the door instinctively to prevent it from hitting him and then took his foot out of the doorframe but then added that § 87(2)(b) repeatedly tried to slam the door on his foot. PO Cabrera took his foot out of the door once he determined that § 87(2)(b) was not going to come outside. PO Cabrera stated that he was not going to "slam" the door open merely to issue a summons. PO Cabrera did not recall how long he and PO Ku were there. PO Ku's statement added that PO Cabrera put his foot in the door to prevent it from closing and that the officers were outside of § 87(2)(b) door for five or six minutes before leaving. Sgt. Padovani's agreed that the officers left because they were not going to force themselves into § 87(2)(b) apartment to issue a summons.

Placing a foot in the threshold of a door constitutes an entry. People v. Reese, 5 Misc. 3d 1030(A) (2014) (encl. a1-a4). An officer may make a warrantless entry to effect an arrest only if he has § 87(2)(b)'s consent to do so or if there are exigent circumstances such as a threat to an officer's safety or the imminent threat of the destruction of evidence. People v. Jiminez, 187 A.D.2d 332 (encl. a10-a14). The courts have held that consent must be voluntary and can be established via § 87(2)(b)'s conduct as well his words. People v. Brown, 651 N.Y.S.2d 981 (1996). (encl. a5-a9).

§ 87(2)(b), § 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

§ 87(2)(b), § 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

§ 87(2)(b), § 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

Allegation B – Discourtesy: PO Jonathan Ku spoke discourteously to § 87(2)(b)

§ 87(2)(b) and § 87(2)(b)

Allegation C – Abuse of Authority: PO Jonathan Ku threatened § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) with the use of force.

Allegation D – Offensive Language: PO Jonathan Ku made remarks to § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) based upon their races.

§ 87(2)(b) and § 87(2)(b) alleged that PO Ku directed discourteous and offensive language toward them and § 87(2)(b)

§ 87(2)(b) stated that immediately after she tried to close the door on the officers PO Ku told her, § 87(2)(b) and § 87(2)(b) to get the “fuck” out of the apartment, that he would “fuck” them up, and that he would kick their “fucking asses.” PO Ku became extremely angry when interacting with § 87(2)(b) stated that § 87(2)(b) said something to PO Ku while he was talking to § 87(2)(b) and that PO Ku told § 87(2)(b) to shut up and that he would kick her “fucking black ass.” § 87(2)(b) statement added that PO Ku called him a “black motherfucker,” told him to shut “the fuck” up, and said to come outside so that PO Ku could “fuck [him] up.” § 87(2)(b) s statement added that PO Ku shouted, “stupid bitch,” “nigger,” “black bitch,” “motherfuckers” when he was struggling with the door before § 87(2)(b) came to the door.

§ 87(2)(b) called 911 during the incident. According to the recorded call, § 87(2)(b) mentioned PO Ku by name and stated that he was using racial slurs such as “black motherfucker.” § 87(2)(b) could be heard telling § 87(2)(b) that she knew an officer said “black nigger.”

§ 87(2)(b) and § 87(2)(b) s telephone statements’ agreed with those of § 87(2)(b) and § 87(2)(b)

PO Ku stated that he ordered § 87(2)(b) to open the door at least three times with a raised voice. He was not screaming. PO Ku tried to maintain a professional demeanor while attempting to get § 87(2)(b) to come outside and provide her ID. PO Ku did not recall what other statements he made to a civilian during the incident. He denied making the specific comments alleged by § 87(2)(b) and § 87(2)(b) and further denied making any comments about a civilian’s race. PO Ku never interacted with § 87(2)(b) or § 87(2)(b)

PO Cabrera’s statement added that PO Ku became irate when § 87(2)(b) tried to slam the door. § 87(2)(b) called the officers racist “bastards” but PO Cabrera did not know why. PO Cabrera did not hear PO Ku make any statements about any civilian’s race or sex. PO Cabrera did not hear PO Ku threaten any civilian with force. PO Cabrera stated that PO Ku did not use the word “fuck.” Neither PO Ku nor PO Cabrera interacted with § 87(2)(b) prior to leaving the scene for the first time.

§ 87(2)(g)

Allegation E – Abuse of Authority: PO Jonathan Ku refused to provide his name and shield number to § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) alleged that PO Ku refused to provide his name and shield number to § 87(2)(b) stated that PO Ku said no when § 87(2)(b) asked

for his name and shield number. § 87(2)(b) added that PO Ku told § 87(2)(b) to come outside and “get it.”

PO Ku did not recall whether he provided his own name and shield number to § 87(2)(b) or whether Sgt. Padovani provided it on his behalf. PO Ku did not recall whether he said that if § 87(2)(b) wanted PO Ku’s name and shield number, § 87(2)(b) could come outside and get it. PO Cabrera stated that PO Ku became irate when § 87(2)(b) asked for PO Ku’s name and shield number. PO Cabrera and Sgt. Padovani stated that PO Ku told § 87(2)(b) to come outside and get it in response to § 87(2)(b) request. Sgt. Padovani acknowledged providing PO Ku’s name and shield number to § 87(2)(b) because PO Ku would not do it himself.

When asked by a member of the public, an officer must clearly state his name, rank, shield and command and give the requester enough time to record this information. Patrol Guide Procedure 203-09 (encl. a15).

§ 87(2)(g)

Allegation F – Abuse of Authority: Sgt. Brian Padovani refused to provide his name and shield number to § 87(2)(b)

§ 87(2)(b) alleged that Sgt. Padovani failed to respond when § 87(2)(b) requested his name and shield number. § 87(2)(b) stated he asked for Sgt. Padovani’s name and shield number when Sgt. Padovani called the incident childish. Sgt. Padovani did not respond and § 87(2)(b) read the information off Sgt. Padovani’s shield out loud. Sgt. Padovani verbally confirmed that what § 87(2)(b) said was right and added that his rank was sergeant. Sgt. Padovani, PO Ku, and PO Cabrera each stated that Sgt. Padovani provided his own name and shield number. They each have memo book entries in regards to this interaction.

§ 87(2)(b), § 87(2)(g)

Team: ____2____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date